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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/707,723	11/07/2000	Kazuyuki Sakakibara	CTW-006	9799
959 7590 02/18/2004 LAHIVE & COCKFIELD, LLP. 28 STATE STREET BOSTON, MA 02109			EXAMINER TSANG FOSTER, SUSY N	
			ART UNIT 1745	PAPER NUMBER

DATE MAILED: 02/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/07,723

Applicant(s)

SAKAKIBARA ET AL.

Examiner

Susy N Tsang-Foster

Art Unit

1745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.135(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may require any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Response to communication(s) filed on 07 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 and 31-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-24 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 25-28 and 31-40 is/are rejected.
- 7) ☒ Claim(s) 3-7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| <p>1) <input type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/ISB/08)
Paper No(s)/Mail Date _____</p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date _____</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-162)</p> <p>6) <input type="checkbox"/> Other _____</p> |
|---|--|

DETAILED ACTION

Response to Amendment

1. The declaration under 37 CFR 1.132 filed 11/7/2003 is insufficient to overcome the rejection of claims 1-2 based upon U.S. Pat. No. 6,537,694 as set forth in the last Office action because: the executor of the declaration is not the same person making the declaration and therefore the declaration is defective. The declaration begins with the statement "I, Youichi Kato, hereby declare as follows:" and is signed by Kazuyuki Sakakibara on 10/29/2003.
2. The terminal disclaimer filed on 11/7/2003 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. 6,566,005 has been reviewed and is accepted. The terminal disclaimer has been recorded.
3. This Office Action is responsive to the amendment filed on 11/7/2003. Claim 25 has been amended. Claims 29, 30, and 41-72 are cancelled. Claims 1-28, and 31-40 are pending. Claims 3-7 are objected to. Claims 8-24 are allowed. Claims 1 and 2 are rejected for reasons of record which are reiterated below for applicant's convenience. Claims 25-28, and 31-40 are rejected for reasons necessitated by applicant's amendment.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it

pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 25-28, and 31-40 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In claim 25, the limitation "each said first and second cell group including at least one cell and having a heat load distinct from the other cells" does not appear to be supported by the original disclosure. Furthermore, it is unclear what other cells are being referred to since the cells are divided into at least one first cell group and at least one second cell group.

Claims depending from claims rejected under 35 USC 112, first paragraph are also rejected for the same.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 25-28, and 31-40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 25, the limitation "each said first and second cell group including at least one cell and having a heat load distinct from the other cells" is indefinite because it is unclear what

Art Unit: 1745

other cells are being referred to since the cells are divided into at least one first cell group and at least one second cell group.

Claims depending from claims rejected under 35 USC 112, second paragraph are also rejected for the same.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by Sugiura et al. (US 6,537,694 B1).

The applied reference has a common inventor and assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

With respect to claim 1, Sugiura et al. discloses a battery comprising a case 20 (see Figure 1) containing a plurality of cells 4 (see Figure 2), an air passage 32 (see Figure 5) formed within the case for allowing cooling air outside the case to enter the case and to pass along the cells and exit from the case, and a U-shaped radiator 9 (see Figure 3) provided in the air passage 32 is in contact with more than one outer surfaces of the cells 4 (see Figure 2), and the heat capacity of the radiator increases in the downstream direction of a flow of the cooling air as shown in Figures 5 and 6 where a plurality of fins 10 are present in a downstream direction of the flow of cooling air.

With respect to claim 2, the plurality of fins 10 increases the surface area and the volume of the radiator in the downstream direction of the flow of the cooling air (see Figure 6).

Allowable Subject Matter

10. Claim 8-24 are allowed.
11. Claims 3-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
12. The following is a statement of reasons for the indication of allowable subject matter:

The reasons are cumulative from applicant's arguments of record that distinguish the allowed claims from the prior art of record

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications should be directed to examiner Susy Tsang-Foster, Ph.D. whose telephone number is (571) 272-1293. The examiner can normally be reached on Monday through Friday from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached at (571) 272-1292.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Art Unit: 1745

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

st/ *Susy Tsang-Foster*

Susy Tsang-Foster
Primary Examiner
Art Unit 1745